

**BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION**  
**ASSESSMENT APPEALS COMMISSION**

Appeal of:     Stewart A. Taylor                                )  
                  Dist. 9, Map 54A, Group C, Control Map 54A     )  
                  Parcel 1.00, S.I. 000                                ) Washington County  
                  **Tax Years 2004 – 2007**                                )

## FINAL DECISION AND ORDER

### Statement of the Case

This appeal was filed on behalf of the property owner from the Initial Decision and Order of the administrative judge. The administrative judge affirmed the following values established by the Washington County Board of Equalization:

<u>Tax Year</u>	<u>Land Value</u>	<u>Improvement Value</u>	<u>Total Value</u>	<u>Assessment</u>
2004	\$2,996,900	\$225,700	\$3,222,600	\$1,289,040
2005	\$2,996,900	\$ 36,500	\$3,033,400	\$1,213,360
2006	\$2,996,900	\$ 0	\$2,996,900	\$1,198,760

The appeal was heard in Morristown, Tennessee on December 14, 2007 before Commission members Odgen Stokes (presiding), Beth Ledbetter, Robert Walker, and Kay Sandifer.<sup>1</sup> The taxpayer, Stewart A. Taylor, appeared and was represented by Attorney T. Arthur Scott. Michael Green, an appraiser, appeared as a witness for the taxpayer. Monty Treadway, the Washington County Assessor, and John Sims, the Deputy Assessor of Property, appeared on behalf of the county.

### **Findings of Fact and Conclusions of Law**

The subject property consists of an 8.6 acre tract that is located at the southwest corner of the State of Franklin Road and West Market Street in Johnson City, Tennessee. There was a TVA customer service center, which included an office building, a warehouse, and an adjacent garage, located on this property until approximately January 27, 2005, when these improvements were demolished.

It was the testimony of the taxpayer that he considered the purchase of the subject property a "speculative investment". As was stipulated by the parties, the subject property was zoned R-4 at the time of purchase.<sup>2</sup> At various times, the taxpayer attempted to get the property re-zoned and to acquire building permits. An R-4 zoning designation allows sixteen (16) condominiums to be built per acre. Taxpayer's request for a permit to build condominiums on the subject property was denied. According to the taxpayer, his desired zoning order was as follows: (a) commercial; (b) MS-1 (medical services); and (c) residential.

<sup>1</sup>Mr. Walker sat as a designated alternate in the absence of a regular member, per T.C.A. § 4-5-302(e).

<sup>2</sup>See Exhibit 1, Agreed Stipulations of Fact.



Attorney Scott stated that the taxpayer was contesting the classification for tax years 2005 and 2006, but was contesting the value for tax years 2004, 2005, and 2006. Therefore, there are two issues before this Commission – classification and valuation of the subject property. Relevant to both issues is the determination of the “highest and best use” of this property as of January 1, 2005.

The county contends that the taxpayer set the value of the property when he purchased it in 2003 for \$3.1 million. The county testified that it is its policy to assess property at a residential rate, if the property is “vacant and not being used for commercial”. The county also noted that, at the time the initial appeal was filed, the taxpayer had failed to pay the county property taxes for 2006. According to the county, the property and appraisal were split into two (2) lots for tax year 2007. The appraisal for tax year 2007 was not appealed to the county board.

When asked about the \$36,500 improvement value for 2005, the county responded that it was the result of the proration from the date the demolition permit was obtained. It was the testimony of the county that, in cases like this, the term of the permit is considered and the improvements are assessed as they are demolished.

The Commission finds the subject property should be classified in the “commercial” subclass. The applicable law, Tenn. Code Ann. §67-5-801, provides that property should be classified according to its “immediate most suitable economic use”, after considering several enumerated factors. The factors to be considered include surrounding uses and zoning. As of January 1, 2004, the property was in actual use for offices and was classifiable as “commercial”. Thereafter, the property was vacated, while the owner sought new zoning.

The uses surrounding the subject property are overwhelmingly commercial. Therefore, unless there is a legal restriction on the use, the subclassification of the subject property would also be commercial. After considering the lengthy testimony in this case, we conclude there is no legal restriction against commercial use of this property that could not be removed by a reasonably foreseeable change in zoning. The prior owner, a federal agency, was not subject to zoning, and the present owner has experienced significant opposition to a zoning change from local authorities. From the testimony, we are persuaded that the present owner’s zoning troubles derive from political, rather than legal factors. We are also persuaded that a neutral prospective purchaser would purchase the property for its commercial potential, notwithstanding the present owner’s difficulties. .

With regard to value, the taxpayer’s appraiser limited his estimate of value by assuming only residential uses, characterizing the December 21, 2003 sale of the subject property as “speculative”. Given the surrounding commercial uses, we find it is not reasonable to assume only residential uses for the subject property. The appraiser has been unduly influenced by the plight of the present owner. A neutral prospective purchaser would anticipate a commercial use and expect to pay something more than would be justified by assuming residential uses. Since the taxpayer has not established



a reasonable basis for an alternative value, the assessor's value should be affirmed as to the land. Since commercial use assumes removal of the present structures, the values attributed to these structures should be removed from the assessment.

The time to appeal the 2007 assessment to the Washington County Board of Equalization had run during the pendency of the appeal to the State Board of Equalization. Therefore, at this hearing, the taxpayer requested that the taxpayer's appeal to the Board be amended to include tax year 2007. The assessor neither opposed, nor supported the request. Since the Commission finds that it is the usual practice to grant such requests, the appeal will include tax year 2007, unless the assessor subsequently demonstrates good cause to reconsider our action upon a timely petition.

At the conclusion of the hearing, the assessor also testified to the Commission that the 2006 taxes remained unpaid, despite now being delinquent. The Commission finds that the issue was not raised timely enough to be considered prior to our ruling on the merits.

### **ORDER**

By reason of the foregoing, it is ORDERED, that the initial decision and order of the administrative judge be affirmed as to the land value, but reversed as to the improvement values. The following values and assessments are adopted for tax years 2004 through 2007:

<u>Tax Year</u>	<u>Land Value</u>	<u>Improvement Value</u>	<u>Total Value</u>	<u>Assessment</u>
2004	\$2,996,900	\$ 0	\$2,996,900	\$1,198,760
2005	\$2,996,900	\$ 0	\$2,996,900	\$1,198,760
2006	\$2,996,900	\$ 0	\$2,996,900	\$1,198,760
2007	\$2,996,900	\$ 0	\$2,996,900	\$1,198,760

This order is subject to:

1. **Reconsideration by the Commission**, in the Commission's discretion. Reconsideration must be requested in writing, stating specific grounds for relief and the request must be filed with the Executive Secretary of the State Board of Equalization with fifteen (15) days from the date of this order.
2. **Review by the State Board of Equalization**, in the Board's discretion. This review must be requested in writing, state specific grounds for relief, and be filed with the Executive Secretary of the State Board within fifteen (15) days from the date of this order.
3. **Review by the Chancery Court** of Davidson County or other venue as provided by law. A petition must be filed within sixty (60) days from the date of the official assessment certificate which will be issued when this matter has become final.

Requests for stay of effectiveness will not be accepted.



DATED: Jan. 29, 2008

O. John Stiles  
Presiding Member

ATTEST:

Kelsie Jensen  
Executive Secretary

cc: Attorney T. Arthur Scott  
Monty Treadway, Washington County Assessor of Property

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